

LEGAL ACTION SUMMARY

Tempe City Council
Regular Council Meeting
Harry E. Mitchell Government Center
Tempe City Hall - City Council Chambers
31 East Fifth Street, Tempe, Arizona
Thursday, May 22, 2014
7:30 PM

[MEETING VIDEO](#)

Members of the City Council may attend either in person or by telephone conference call.

1. INVOCATION - Councilmember Woods

2. PLEDGE OF ALLEGIANCE

3. MINUTES - Councilmember Ellis

A. Approval of City Council Meeting Minutes - None

B. Acceptance of Board, Commission and Committee Meeting Minutes

1. [Aviation Commission - March 11, 2014](#)
2. [Human Relations Commission - March 11, 2014](#)
3. [Library Advisory Board - February 5, 2014 and March 5, 2014](#)
4. [Mayor's Youth Advisory Commission - April 15, 2014](#)
5. [Neighborhood Advisory Commission - April 2, 2014](#)
6. [Tempe Fire Public Safety Personnel Retirement Board - April 3, 2014](#)
7. [Tempe Police Public Safety Personnel Retirement Board - April 3, 2014](#)
8. [Tempe Police and Fire Public Safety Personnel Retirement Board Joint Meeting - April 3, 2014](#)

ACCEPTED

4. REPORTS AND ANNOUNCEMENTS

A. Mayor's Announcements

1. **Board and Commission (Re)Appointments**
2. **"Jeremy Jackrabbit Captures the Sun" Presentation**
3. **National Public Works Week**
4. **United Arizona Employee Association (UAEA) Scholarship Award**

B. City Manager's Announcements

5. CONSENT AGENDA

All items listed on the Consent Agenda will be considered as a group and will be enacted with one motion by the City Council unless an item is removed for separate consideration. Members of the public may remove public hearing items for separate consideration. Public hearing items are designated by an asterisk (*). Councilmembers may remove any item for separate consideration.

A. Miscellaneous Items

- 5A1. [Approve the April 2014 Report of Claims Paid to be filed for audit.](#)

Fiscal Impact: Total payments in April: \$11,439,533.17.

APPROVED

- *5A2. [Hold a public hearing to recommend the approval of a Series 12 restaurant liquor license for B3K Management Team, LLC, dba Philly's Sports Grill, 1402 South Priest Drive.](#)

Fiscal Impact: N/A

APPROVED

- *5A3. [Hold a public hearing to recommend the approval of a Series 12 restaurant liquor license for Bodega 11 LLC, dba Sydney's Café and Market, 2000 E Rio Salado Parkway, Suite 1064.](#)

Fiscal Impact: N/A

APPROVED

- *5A4. [Hold a public hearing to recommend the approval of a Series 05 government liquor license for Arizona Board of Regents acting for and on behalf of Arizona State University, dba The Oasis, 450 East Lemon Street, 4th Floor.](#)

Fiscal Impact: N/A

APPROVED

- *5A5. [Hold a public hearing to recommend the approval of a Series 12 restaurant liquor license for K & T Trading Inc., dba Dozo Izakaya, 440 West Warner Road, Suite 104.](#)

Fiscal Impact: N/A

APPROVED

- *5A6. [Hold a public hearing to recommend the approval of an acquisition of control of a Series 10 beer and wine store liquor license for Supr Petro, LLC, dba Campus Chevron, 825 East Apache Boulevard.](#)

Fiscal Impact: N/A

APPROVED

- *5A7. [Hold a public hearing to recommend the approval of an acquisition of control and agent change of a Series 12 restaurant liquor license for Thai Rama Tempe LLC, dba Thai Rama Restaurant, 927 East University Drive.](#)

Fiscal Impact: N/A

APPROVED

- 5A8. [Authorize participation in the first phase of the American Solar Transformation Initiative through which the City will work with Optony, Inc. to develop a "Solar Roadmap" for the City of Tempe.](#)

Fiscal Impact: Optony, Inc. is funded by a grant from the U.S. Department of Energy SunShot Initiative and American Solar Transformation Initiative. Staff time spent on participation in the program will be paid through the existing Public Works and Community Development General Fund budget appropriation. No additional budget appropriation is being requested.

APPROVED

- 5A9. [Approve \(re\)appointments to various City of Tempe boards, commissions, and committees.](#)

Fiscal Impact: N/A

APPROVED

- 5A10. [Adopt a Notice of Intent to enter into a retail development tax incentive agreement with respect to the Twin Palms Project located on Apache Boulevard east of Mill Avenue in Tempe, Arizona.](#)

Fiscal Impact: Adoption of the Notice of Intent has no fiscal impact.

ADOPTED

B. Award of Bids/Contracts

- 5B1. [Approve the renewal of a one-year contract with The Environmental Quality Company which provides qualified personnel to assist with the proper handling of hazardous materials at the City's Household Products Collection Center, and any special hazardous waste collection events sponsored by the City, for the Public Works Department.](#)

Fiscal Impact: Total cost of this contract will not exceed \$75,000. Sufficient funds have been appropriated in the Solid Waste Fund – cost center 3717 to 3721 (Hazardous Materials Safety) – for the anticipated expenditure in the current fiscal year.

APPROVED

- 5B2. [Approve the one-year renewal of a contract with LandCorp Arizona LLC for cleaning services at the Diablo Stadium Complex for use by the Community Services Department.](#)

Fiscal Impact: Total cost of this contract will not exceed \$70,000 during the one-year renewal period. Sufficient funds have been appropriated in the General Fund – Recreation cost center 2529 (Diablo Stadium) for the anticipated expenditures in the current fiscal year.

APPROVED

- 5B3. [Approve the utilization of one-year State of Arizona contracts with Teknion LLC, Facilitec, Inc., Corporate Interior Systems, Goodmans, Inc., Arizona Furnishings, Sitmatic, and Target Commercial Interiors, Inc. for furniture products and services utilized throughout the City.](#)

Fiscal Impact: Total combined cost of these contracts will not exceed \$300,000 during the initial two-year term. Sufficient funds have been appropriated in various Citywide funds and cost centers for the anticipated expenditures in the current fiscal year.

APPROVED

- 5B4. [Award a contract to Crafcro Incorporated for the purchase of a trailer mounted road sealant melter/appliator for use by the Public Works Department.](#)

Fiscal Impact: Total cost for the purchase of one unit will not exceed \$56,000. Sufficient funds have been appropriated in the Highway User Revenue Fund – cost center 3813 (Street Maintenance) – for the anticipated expenditure in the current fiscal year.

APPROVED

- 5B5. [Award two-year contracts with two, two-year renewal options to Primus Electronics Corporation and United Fire Equipment Company for the supply of mine safety appliances repair and replacement equipment.](#)

Fiscal Impact: Total combined cost of these contracts will not exceed \$400,000 during the initial two-year term. Sufficient funds have been appropriated in General Fund cost centers 2340 (Fire – Emergency Services) and 2380 (Fire - Special Operations), Water/Wastewater Fund cost centers 3012 (Water Plant Control Center Operations), 3013 (Johnny, G. Martinez Plant), 3014 (South Tempe Water Plant), 3023 (Utility Services Transmission and Collection), 3034 (Kyrene Water Reclamation Plant), and 3026 (Environmental Services – Administration) for the anticipated expenditures in the current fiscal year.

APPROVED

- 5B6. [Award a professional services design contract to Aqua Engineering, Inc. for irrigation system renovation at Rolling Hills Golf Course.](#)

Fiscal Impact: The contract amount is \$141,120. Funds are approved and appropriated for fiscal year 2013/14 in Capital Improvement Project No. 6305929, Rolling Hills Irrigation.

APPROVED

- 5B7. [Award a professional services contract to Engineering and Environmental Consultants, Inc. for an Individual Aquifer Protection Permit for the Johnny G. Martinez Water Treatment Plant.](#)

Fiscal Impact: The contract amount is \$80,749. Funds are approved and appropriated to cover this contract and related costs in operating budget cost center 3027, account 6606 (environmental permits).

APPROVED

- 5B8. [Award a construction contract to Low Mountain Construction, Inc. and a construction management contract to Kitchell/CEM, Inc. for improvements to the sewage metering station at Gilbert Drive west of Scottsdale Road.](#)

Fiscal Impact: The total construction contract amount is \$334,000, the construction management contract amount is \$65,240, and the project contingency amount is \$50,100. Funds to cover these contracts and associated costs are approved and appropriated for fiscal year 2013/14 in Capital Improvement Project No. 3206069, Collection System Odor Control.

APPROVED

- 5B9. [Award a professional services design contract to Project Engineering Consultants, Ltd. for water and sewer line replacement on Farmer Avenue from Broadway Road to First Street.](#)

Fiscal Impact: The contract amount is \$110,269.31. Funds are approved and appropriated to cover this contract and related costs for fiscal year 2013/14 in Capital Improvement Project No. 3204969, Replacement of Aging Waterline Infrastructure.

APPROVED

- 5B10. [Approve a two-year contract renewal with Millenium Golf Management, LLC to provide golf, food, and beverage services at the City's Rolling Hills and Ken McDonald Golf Courses.](#)

Fiscal Impact: Total cost of this contract renewal will not exceed \$515,000 during the two-year renewal period. Sufficient funds have been appropriated in the Golf Fund cost centers 2513 (Ken McDonald Business Operations) and 2517 (Rolling Hills Business Operations) for the anticipated expenditures in the current fiscal year.

APPROVED

- 5B11. [Award one-year contracts with five, one-year renewal options to All City Towing, Apache Sands Towing, and Towing Professionals of Arizona for towing services utilized by the Police and Public Works Departments.](#)

Fiscal Impact: Total combined cost for City of Tempe fleet tows shall not exceed \$30,000 during the initial one-year contract period. Costs associated with police initiated tows are the responsibility of vehicle owner with a combined annual estimated market value of \$700,000. For costs incurred by the City of Tempe, sufficient funds have been budgeted in the General Fund – cost center 3262 (Fleet Maintenance) – for the anticipated expenditure in the upcoming fiscal year.

APPROVED

C. Resolutions

- 5C1. [Adopt a resolution authorizing the submission of an application from Make-A-Wish Arizona to the Fort McDowell Yavapai Nation for a grant of gaming funds. \(Resolution No. R2014.71\)](#)

Fiscal Impact: The City of Tempe will serve as a pass through for this grant request of \$10,000. There is no fiscal impact to the City of Tempe.

ADOPTED

- 5C2. [Adopt a resolution authorizing the submission of an application from Make-A-Wish Arizona to the Ak-Chin Indian Community for a grant of gaming funds. \(Resolution No. R2014.72\)](#)

Fiscal Impact: The City of Tempe will serve as a pass through for this grant request of \$10,000. There is no fiscal impact to the City of Tempe.

ADOPTED

- 5C3. [Adopt a resolution authorizing the selection and exclusive negotiations with TrendEx Holdings, LLC to acquire approximately 11 acres of City owned land located within the Pier 202 Subdivision on the south bank of Tempe Town Lake located north of Rio Salado Parkway between Rural Road and McClintock Drive. \(Resolution No. R2014.74\)](#)

Fiscal Impact: If successful, the parties will negotiate a Development and Disposition Agreement containing the financial terms of the transaction; the Development and Disposition Agreement will be subject to Council review and approval prior to execution.

ADOPTED

6. NON-CONSENT AGENDA

All items listed on the Non-Consent Agenda will be considered separately. Agenda items scheduled for Introduction and First Public Hearing will be heard, but will not be voted upon at this meeting. Agenda items scheduled for Second Public Hearing and Final Adoption will be voted upon tonight.

Quasi-judicial items are indicated by "q-j". The City Council sits as a quasi-judicial body when hearing variances. In this situation, the City Council must conduct itself as a court, not as a legislative body. Pre-meeting contact with the City Council on quasi-judicial matters is prohibited. Any materials or conversations concerning the item shall only be presented to the City Council at the scheduled public hearing.

A. Miscellaneous Items/Bids/Contracts/Resolutions

- *6A1. [Hold a public hearing for an appeal of the Development Review Commission's decision of Approval for a Development Plan Review consisting of a site plan, building elevations and landscape plan for CAPSTONE COTTAGES, located at 708 South Lindon Lane. The appellant is Emily Gersema, President of the Lindon Park Neighborhood Association.](#)

Fiscal Impact: The planned development will result in collection of the standard development fees, calculated according to the approved fee structure at the time of permit issuance.

THIS ITEM WAS CONTINUED TO THE JUNE 12, 2014 REGULAR COUNCIL MEETING

- 6A2. [Adopt a resolution authorizing the Mayor to sign the lease and agreement between the City of Tempe and Singh Organic Soils, LLC to develop and operate an urban agricultural garden facility on Flood Control District of Maricopa County property, located in Indian Bend Wash. \(Resolution No. R2014.75\)](#)

Fiscal Impact: Through this lease agreement, the cost of maintaining the Flood Control District of Maricopa County property, which is the City's responsibility, would be assigned to Singh Organic Soils, LLC. After the initial two-year development period, rents will be split with the City receiving 25% of the annual rent and the Flood Control District of Maricopa County receiving 75% of the annual rent.

ADOPTED

B. Ordinances and Items for Introduction and First Hearing

- *6B1. [Introduce and hold the first public hearing to adopt an ordinance amending Chapter 2, Article V, of the Tempe City Code relating to Boards, Commissions, etc.; Chapter 8, Article I, relating to Tempe Building Safety Administrative Code; and Chapter 14A, relating to Historic Preservation. The second and final public hearing is scheduled for June 12, 2014. \(Ordinance No. O2014.22\)](#)

Fiscal Impact: There is no fiscal impact to the City.

THE SECOND PUBLIC HEARING WAS SCHEDULED FOR JUNE 12, 2014

C. Ordinances and Items for Second Hearing and Final Adoption

- *6C1. [Hold the second and final public hearing to adopt an ordinance amending Chapter 16, Articles IV and VI, Tempe City Code, relating to the reduction of the transaction privilege tax rate to reflect the expiration of the two-tenths percent temporary transaction privilege tax effective June 30, 2014. \(Ordinance No. O2014.21\)](#)

Fiscal Impact: The reduction of tax rates enacted will result in an annual reduction of transaction privilege tax revenues of approximately \$11.5 million beginning in fiscal year 2014-15.

ADOPTED

7. CURRENT EVENTS/COUNCIL ANNOUNCEMENTS/FUTURE AGENDA ITEMS

8. PUBLIC APPEARANCES

According to the Arizona Open Meeting Law, the City Council may only discuss matters listed on this agenda. Matters discussed by the public during public appearances cannot be discussed by the City Council unless they are specifically listed on this agenda. There is a three-minute time limit per speaker. Speaker's visual aids or recorded tapes are not allowed.

Members of the public shall refrain from making personal, impertinent or slanderous remarks and from becoming boisterous while addressing the City Council or while attending the meeting. Unauthorized remarks from the audience, clapping, stomping of feet, yelling or any similar demonstrations are also prohibited. Violations of these rules may result in removal from the City Council meeting.

A. Scheduled

1. ~~Jenny Papaianni—Access to City of Tempe Police reports~~

MS. PAPAIANNI WITHDREW HER REQUEST TO SPEAK

2. ~~Edward Petrullo—Noise and vehicle enforcement at Maple Avenue and 6th Street~~

MR. PETRULLO DID NOT SPEAK

B. Unscheduled

Legal Advice: If necessary, the City Council may vote to adjourn to executive session for the purpose of obtaining legal advice from the Council's attorney on any matter listed on the agenda pursuant to A.R.S §38-431.03(A)(3).

The City of Tempe endeavors to make all public meetings accessible to persons with disabilities. With 72 hours advance notice, special assistance can also be provided for sight and/or hearing impaired persons at public meetings. Please call (480) 350-2905 (voice) or (480) 350-2750 (TDD) to request an accommodation to participate in the City Council meeting.

**Agendas are also available at <http://www.tempe.gov/clerk>.
Watch this meeting live on Cox cable channel 11 or www.tempe.gov/tempe11.
Video replay of this meeting is available the next day at www.tempe.gov/tempe11.**